

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-254-MR
[CRIMINAL CASE NO. 4:98-cr-144-MR-1]

LLOYD A. WILLIAMS,

Petitioner,

VS.

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS MATTER is before the Court on Petitioner's Motion under 28, United States Code, Section 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, [Doc. 1], or alternatively, a Motion for Writ of Error Coram Nobis under 28 U.S.C. § 1651; and on Petitioner's Motion to Amend. [Doc. 6].

First, to the extent that this Court treats the instant motion as one arising under 28 U.S.C. § 2255, the Court has conducted an initial screening of the petition under the Rules Governing § 2255 Proceedings, Rule 4(b) 28 U.S.C.A. foll. § 2255, and finds that: (1) the petition has not been signed under penalty of perjury, Rule 2(b)(5), 28 U.S.C.A. foll. § 2255; (2) the § 2255 motion was not timely filed; and (3) Petitioner has asserted a colorable claim

for relief cognizable under § 2255(a). Upon consideration of the motion and the record of prior proceedings, the Court determines that the United States Attorney should file a response to Petitioner's allegations. The Court will direct that the United States file an Answer or other responsive pleading in this case within fifty (50) days. Furthermore, the Court will give Petitioner thirty (30) days in which to resubmit the § 2255 petition, accompanied by his signature made under penalty of perjury.

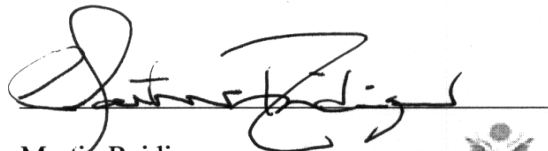
IT IS, THEREFORE, ORDERED that:

1. No later than thirty (30) days from the entry of this Order Petitioner shall resubmit the § 2255 petition, accompanied by his signature made under penalty of perjury. If Petitioner fails to resubmit the § 2255 petition signed under penalty of perjury, the Court will treat the motion as one made solely pursuant to 28 U.S.C. § 1651.
2. No later than fifty (50) days from the entry of this Order the United States Attorney shall file an Answer or other responsive pleading to Petitioner's Motion, as well as the additional arguments made in the Motion to Amend [Doc. 6].
3. The Court **GRANTS** Petitioner's Motion for Leave to Amend, [Doc.

6], in which Petitioner presents additional arguments in light of the Fourth Circuit's recent decision in United States v. Powell, 691 F.3d 554 (4th Cir. 2012). The arguments made in the motion will be deemed to be incorporated into Petitioner's original motion.

IT IS SO ORDERED.

Signed: October 26, 2012


Martin Reidinger
United States District Judge

